

**Remarks/Arguments**

Claims 14-48 are pending in the application, and stand subject to restriction/election. Claims 14, 18, 22, 30, 33, 36, and 47 are in independent form. Claims 14-17 and 36-46 are withdrawn from consideration by this amendment.

**Response to Restriction Election**

The Examiner has required an election of claims on the grounds that the application contains claims directed to multiple patentably distinct inventions. The Examiner divides the allegedly distinct inventions into subcombination I (claims 14-17) subcombination II (claims 18-35 and 47-48) and subcombination III (claims 36-46). Applicants elect claims 18-35 and 47-48 drawn to subcombination II, with traverse.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 -§ 806.05(i)); and
- There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) -§ 806.04(i), § 808.01(a), and § 808.02).

Applicants respectfully traverse the requirement for restriction on at least the grounds that that Examiner has not shown that there is a serious burden to examine all of the claims.

The Examiner seeks to establish a burden by asserting that the subcombinations are to be classified separately. In particular, the Examiner indicates that all subcombinations are classified as class 705, but that subcombinations I, II and III are classified into subclass 40, 39 and 38, respectively. According to the guidelines set forth in MPEP § 802.02 (A) for establishing burden through separate classification, the Examiner must show appropriate explanation for the separate classification of the claims. Applicants submit that the Examiner has not appropriately classified non-elected subcombinations I and III and the claims drawn thereto.

As stated by the Examiner, claims 14-17 are drawn to “a method of financing transactions between merchants and payors, comprising: accepting money to be pooled in a fund; receiving an electronic transfer of funds from the unrelated third party.” The Examiner classifies these claims into subclass 40. Subclass 40 concerns “[s]ubject matter drawn to a computerized arrangement for generating notices of payment due, or transferring funds in response thereto,” or more concisely “for billing or invoicing.” See Class Schedule for Class 705, subclass 40. However, Claims 14-17 are *not* drawn to invoicing or billing, nor are they drawn to transferring funds in response to billing or invoicing. Applicants therefore submit that claims 14-17 are inappropriately classified into subclass 40.

Claims 36-46, as stated by the Examiner, are drawn to “a method of facilitating payment between a payor and a merchant comprising: changing the payor’s account status to indicate that the transaction amount has been paid.” The Examiner classifies these claims into subclass 38. Subclass 38 concerns “[s]ubject matter drawn to a computerized arrangement for

evaluation of the risk factors in a loan determination,” or more concisely “for risk analysis, e.g., for insurance pensions, etc.” See Class Schedule for Class 705, subclass 38. However, Claims 36-46 are *not* drawn to evaluating risk for loan determination or risk analysis for insurance pensions. Therefore, Applicants submit that they are not appropriately classified into subclass 38.

Applicants elect the claims drawn to subcombination II (claims 18-35 and 47-48) and note without prejudice that they are classified into subclass 39. Applicants respectfully submit that the Examiner has not appropriately explained the classification of subcombinations I and III, and therefore has not properly shown that a burden exists that requires restriction of the claims. Applicants respectfully request that the restriction requirement be withdrawn and that all claims be examined on the merits.

### **Conclusion**

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific objection, issue, or comment does not signify agreement with or concession of the rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

If the Commissioner determines that any additional fees or extensions are required, Applicants request that such extensions be granted and any fees be charged to Deposit Account 50-1635.

Applicants submit that all claims in the application are now in condition for allowance, and Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Date:

Sept. 3, 2009

Respectfully submitted,



Robert McMinn

Reg. No. 56,497

Patent Agent

PO Box 164140

Austin, TX 78716-4140

Phone (512) 637-0800

Facsimile (512) 306-1963